IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 744 of 2007(L)

PETITIONERS:

---

1. SREENADH LENIN. R.S.,
   S/O.REGHUNADHAN NAIR, SINDHU SADANAM,
   THALAYAL DESOM, ATHIYANNOOR VILLAGE,
   BALARAMAPURAM. P.O.

2. SREEDHAR. A.J., S/O.ASHOKAN,
   CHIRATHALAVILAKATH VEEDU, THALAYAL DESOM,
   ATHIYANNOOR VILLAGE, BALARAMAPURAM P.O.

3. GIRISH KUMAR. V., S/O. VELUDAS,
   VADAKKEVILAPUTHEN VEEDU, CHAIKOTTUKONAM,
   MARUTHATHOOR DESOM, NEYYATTINKARA.

4. GOPAKUMAR. V., S/O.VELUDAS,
   VADAKKEVILAPUTHEN VEEDU, CHAIKOTTUKONAM,
   MARUTHATHOOR DESOM, NEYYATTINKARA.

5. ANISH KUMAR. M., S/O.MOHANAN NAIR,
   KADAVUMPERUMPALATH, PANDALAM P.O.,
   MULAMPUZHA.

BY ADV. SRI.G.SUDHEER

RESPONDENTS:

---

1. TRAVANCORE DEVASWOM BOARD,
   REPRESENTED BY ITS COMMISSIONER,
   DEVASWOM BOARD OFFICE, NANDANCODE,
   THIRUVANANTHAPURAM.

2. THE SECRETARY, TRAVANCORE DEVASWOM
   BOARD, DEVASWOM BOARD, NANDANCODE,
   THIRUVANANTHAPURAM.

BY ADV. SRI.D.SREEKUMAR, SC, TDB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 744 of 2007(L)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:	COPY OF THE CERTIFICATE ISSUED BY THE RESPONDENTS TO THE 1ST PETITIONER DATED 21.1.2005.
EXT.P1(a):	COPY OF THE CERTIFICATE ISSUED BY THE RESPONDENTS TO THE 2ND PETITIONER DATED 21.1.2005.
EXT.P1(b):	COPY OF THE CERTIFICATE ISSUED BY THE RESPONDENTS TO THE 3RD PETITIONER DATED 17.5.2004.
EXT.P1(c):	COPY OF THE CERTIFICATE ISSUED BY THE RESPONDENTS TO THE 4TH PETITIONER DATED 20.10.2002.
EXT.P1(d):	COPY OF THE CERTIFICATE ISSUED BY THE RESPONDENTS TO THE 5TH PETITIONER DATED 17.5.2004.
EXT.P2:	COPY OF THE LETTER DATED 27.5.1998 ISSUED BY THE 2ND RESPONDENT.
EXT.P3:	COPY OF THE ORDER NO.4838/94/EST.I DATED 8.6.1999 ISSUED BY THE 2ND RESPONDENT.
EXT.P4:	COPY OF THE NOTIFICATION NO. ROC NO.6669/2001/MIS.III DATED 3.10.2001 ISSUED BY 2ND RESPONDENT.
EXT.P5:	COPY OF THE NOTIFICATION PUBLISHED IN THOZHILVEEDHI DATED 27.5.2005.
EXT.P6:	COPY OF THE MEMO SENT BY THE 2ND RESPONDENT TO THE 1ST PETITIONER DATED 27.5.2005.
EXT.P6(a):	COPY OF THE MEMO SENT BY THE 2ND RESPONDENT TO THE 2ND PETITIONER DATED 27.5.2005.
EXT.P6(b):	COPY OF THE MEMO SENT BY THE 2ND RESPONDENT TO THE 3RD PETITIONER DATED 27.5.2005.
EXT.P6(c):	COPY OF THE MEMO SENT BY THE 2ND RESPONDENT TO THE 4TH PETITIONER DATED 27.5.2005.
EXT.P7:	COPY OF THE JUDGMENT IN TDB.NO.1/2006 DATED 22.6.2006 PASSED BY THIS HONOURABLE COURT.

.....

BKN // TRUE COPY //

K.BALAKRISHNAN NAIR,J.

WP(C)NO.744 OF 2007-L

Judgment

The petitioners are students, who passed out from the Kshethrakalapeetom under the 1st respondent Devaswom Board. They have cleared the examination in Panchavadyam. Recently, the Devaswom Board has amended its recruitment rules by Ext.P4 notification. As per the said notification, the qualifications prescribed for appointment to the post of Panchavadyam Player are :

"1. Completed VIIIth Standard or equivalent.

2. Experience in playing the concerned instrument."

The petitioners submit, in the recent recruitment to the post of Panchavadyam Player, they were excluded and persons inexperienced in playing Panchavadyam were recruited. That was done on the strength of Ext.P4 amendment. So, they pray for quashing Ext.P4. The learned Standing Counsel for the Devaswom Board submitted that Ext.P4 is an amendment to the statutory Rule and the rule making authority held that experience in playing the concerned instrument will be sufficient. Therefore, it was decided not to insist for any certificate from any institution. If the said Rule is being abused and ineligible persons are recruited, the affected parties can challenge the selection, it is pointed out.

2. Ext.P4, being an amendment to the statutory Recruitment Rules, this Court cannot quash it under Article 226 of the Constitution of India. The petitioners should have prayed for a declaration that the same is ultra vires and unenforcible. But, I am not

throwing out the Writ Petition on the ground of this technical defect. It is for the rule-making authority to decide, what are the necessary qualifications for selection to a post. The prescription of qualification for a Panchavadyam Player as experience in playing the concerned instrument, cannot be said to be arbitrary or irrational. It is a valid prescription of qualification. Therefore, I find nothing illegal with Ext.P4. In the result, the Writ Petition fails and it is dismissed.

18.06.2007 **K.BALAKRISHNAN NAIR,JUDGE**

sta